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Subject: Valsartan MDL - Special Master or No. 54 - Extension/Meet and Confer Request
Date: Thursday, November 18, 2021 10:16:59 AM

Counsel,

With respect to Special Master Order No. 54, we intend to ask the Court for an extension, until **December 1**, to file the declaration ordered by the Court “indicating (a) whether the litigation hold notices submitted for in camera review were the only notices issued in this matter; (b) whether the notices sent in December of 2019 are identical to the Notice dated November 19, 2019 and submitted for in camera review; and (c) whether all document retention policies have been produced.” Please let us know if you will object to this request.

Further, the Court ordered that:

- No later than November 22, 2021, the ZHP Parties shall produce the relevant, non-privileged parts of Xiaofang Kong’s custodial file.
- No later than November 22, 2021, the ZHP Parties shall produce the document bearing bates number ZHP02710347, et seq., in its native format with metadata, and produce all non-privileged documents bearing the designation, “TC-201729.”
- Counsel for Plaintiffs and the ZHP parties shall meet and confer on the production of testing records and report in writing not later than November 30, 2021 on their efforts to resolve this dispute. If the parties are unable to resolve this dispute, the ZHP Parties shall present, no later than December 7, 2021, competent evidence of the anticipated cost of producing the testing records sought by Plaintiffs, along with an affidavit addressing other, less costly options for production of the testing results.

As you know from our submissions to the Court, China recently enacted the Data Security Law, which came into force on September 1, 2021. Article 2 of the new law provides that “[t]his Law is formulated with a view to regulating data processing activities, ensuring data security, promoting data development and utilization, protecting the legitimate rights and interests of individuals and organizations, and safeguarding national sovereignty, security and development interests.”. Article 36 of the Data Security Law provides:

The competent authority of the People’s Republic of China shall handle the requests for data provision by foreign judicial or law enforcement organizations in accordance with relevant laws and international treaties and conventions concluded or acceded to by the People’s Republic of China, or under the principle of equality and reciprocity. Without the approval of the competent authority of the People’s Republic of China, domestic organizations and individuals shall not provide the data stored within the territory of the People’s Republic of China to foreign judicial or law enforcement organizations.

While the new law requires that ZHP obtain the government’s permission to produce the documents at issue prior to their production, the PRC government has not yet enacted the implementing regulations outlining which agencies need to approve document productions, including document productions that would be required for ZHP to comply with certain

aspects of Special Master Order No. 54. Further, ZHP and its counsel in China have been unable to obtain further guidance on this issue from the PRC government, despite their inquiries.

Given this legal obstacle, we would like to have a meet and confer to discuss whether the parties can reach an agreement to hold the November 22 production deadlines in abeyance until such time that ZHP is permitted by the PRC government to continue the export documents intended for use in this litigation, or come to some other amicable resolution/agreement on this issue. We will also be prepared to meet and confer regarding the testing results issue as ordered by the Court.

Please let us know your availability for a meet and confer.

Best regards,

Jessica

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